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5 IN THE CIRCUIT COURT OF THE STATE OF OREGON
6
7 COUNTY OF MULTNOMAH

8 Dr. B.C. aka Dr. John Doe,

Case No.

9
10 Plaintiff,

COMPLAINT FOR FRAUD, FRAUD IN
THE INDUCEMENT, INTENTIONAL
INFLECTION OF EMOTIONAL DISTRESS,
and CONVERSION

11 v.

12 OREGON HEALTH & SCIENCE
13 UNIVERSITY and/or/its/their unknown
14 business entity and/or subsidiary, a public
15 health facility; d/b/a Oregon Health &
Science University Medical Group, an
assumed business name.

Claim is Over \$50,000 and Not Subject to
Mandatory Arbitration

TOTAL PRAYER: \$5,250,000.00

Filing Fee \$884.00
pursuant to ORS 21.160(1)(d)

16 Defendants.
17

18 FOR PLAINTIFF'S CLAIM FOR RELIEF HEREIN, Plaintiff alleges as follows:

19 **GENERAL ALLEGATIONS**

20 1.

21
22 The amount presently in controversy does exceed the sum of \$50,000.00; and, therefore,
23 the present action is not subject to mandatory arbitration.

24 2.

25 Prior to 1995, Oregon Health & Science University (OHSU), which includes the OSHU
26 Fertility Clinic, was a quasi-public corporation in the State of Oregon. Sometime in 1995, the
27 quasi-public corporation, together with its assigns and successors, was merged and changed by
28

1- COMPLAINT FOR FRAUD, FRAUD IN THE INDUCEMENT,
INTENTIONAL INFLECTION OF EMOTIONAL DISTRESS,
and CONVERSION

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1 statute into today's Oregon Health Sciences University (OHSU) a public corporation duly
2 licensed and operating in county of Multnomah, state of Oregon.

3
4 3.

5 At all material times mentioned, Defendant OHSU operated its medical school and
6 hospital together with the OSHU Fertility Clinic.

7
8 4.

9 In 1989, Plaintiff became a medical student at OHSU with the intent of obtaining his
10 doctorate of medicine degree. Shortly after becoming enrolled as a first-year medical student,
11 Plaintiff and his male classmates were solicited and encouraged by employees of the OHSU
12 Fertility Clinic to participate in a sperm donation and research program sponsored by Defendant.
13 Plaintiff and his male peers were encouraged to donate sperm to be used either (1) exclusively
14 for research; or (2) for fertility treatments for the benefit of married couples or women who were
15 unable to conceive children; or (3) both for research and for the benefit of couples or women
16 wanting to conceive and bear children.

17
18 5.

19 At the time of the Defendant's solicitation for Plaintiff to enroll in the sperm donation
20 program, Plaintiff was promised, and the parties specifically agreed to, the following material
21 terms: (1) all fertilizations would be limited to women residing on the east coast, and/or women
22 not residing anywhere near the State of Oregon and the Pacific Northwest; (2) no more than five
23 children would be born of a donor's sperm; (3) once five children were successfully born,
24 Plaintiff's sperm would no longer be available to hopeful mothers but, instead, Plaintiff's sperm
25 would be utilized exclusively for medical research; and (4) at all times after birth, Plaintiff's
26 specific name, identity, and whereabouts would forever remain anonymous unless otherwise
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28

1 ordered by a court of competent jurisdiction.

2
3 6.

4 The above agreed upon terms and conditions served as fundamental and material
5 consideration in securing Plaintiff's agreement to participate in Defendant's fertility program for
6 treatment and research. The agreement to the above terms and conditions was essential for the
7 purpose of ensuring, within a reasonable probability, that any offspring born of Plaintiff's sperm
8 was/were likely to be born in distant homes outside of the State of Oregon –which distance
9 greatly reduced the risk of incidental, platonic, and/or romantic contact of interaction between
10 the offspring conceived via the fertility clinic and Plaintiff, together with Plaintiff's future
11 custodial children.
12

13 7.

14 After graduating from medical school and completing his residency, Plaintiff became a
15 board-certified primary care physician, duly licensed and practicing in a relatively small Oregon
16 town where he and his wife raised their three sons and one adopted daughter. At no time did
17 Plaintiff discover, nor could he have discovered; (1) whether or not Plaintiff's sperm had been
18 successfully implanted; (2) that children were or were not born as a result of contact with the
19 OHSU Fertility Clinic; or (3) that the agreed upon essential terms and conditions were breached
20 by the OHSU Fertility Clinic and/or its agents and/or assigns.
21
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23 8.

24 *Ancestry.com* is a website which collects DNA samples from men and women who
25 voluntarily submit their DNA for the purpose of obtaining generalized information about their
26 regions of ancestral origin and generalized genetic health history.
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9.

Sometime in March of 2018, Plaintiff was contacted by two young sisters (hereinafter referred to as Child #1 and Child #2), who indicated that after becoming young adults, the sisters (along with other siblings) set forth on a quest to discover their genealogical ancestry, and to specifically discover the name and whereabouts of their biological father. The sisters indicated that as a result of information gleaned from *Ancestry.com*, together with the **specific and substantive** information provided to them by the Defendant's fertility clinic agents, the sisters were able to connect the *Ancestry.com* data with the **specific and substantive** information of the clinic and thus identify the names and whereabouts of several siblings, in addition to the name and whereabouts of the childrens' father, to wit, the Plaintiff. Subsequently, Child #4 contacted Plaintiff, and Child #4 revealed to Plaintiff that the fertility clinic's administrator revealed to Child #4 that Plaintiff, "Was part of a group of medical students from whom most of the sperm 'donations' were collected," and that "children born from this group of donor medical students, were typical to Child #4 and her siblings who were the prodigy of a 'professional science related' medical doctor."

10.

Plaintiff submitted plaintiff's DNA to the website *Ancestry.com*. As a result of Plaintiff's submission of DNA to *Ancestry.com*, together with his communications to Child #1, #2, #3 and #4, Plaintiff discovered, for the first time, that Plaintiff was directly linked to additional children conceived from sperm processed at the Defendant's fertility clinic. With the combined efforts of Plaintiff and at least four (4) now known lineal offspring, Plaintiff has ultimately discovered that Plaintiff is the biological father of no less than seventeen (17) children, most (if not all) of whom were conceived and born in the State of Oregon with the high possibility that some children had

1 lived in the same town and attended the same elementary, middle, and/or high schools of the
2 children raised by Plaintiff and his wife. Plaintiff has ultimately discovered that some of his
3 children have attended the same college and church and social circle as their various brothers and
4 sisters without knowing that siblings were born and raised within the State of Oregon, and not on
5 the east coast as previously agreed.

7 11.

8 After March of 2018, Plaintiff's continued investigation discovered that the OHSU
9 fertility clinic failed to contact or follow up with all of the potential mothers who had received
10 Plaintiff's sperm, and, in fact, Defendant's method of collecting data only included those
11 children whose parents took it upon themselves to self-report a successful birth to the fertility
12 clinic. Plaintiff has discovered that the children he knows about were conceived via artificial
13 insemination at the OHSU Fertility Clinic in Portland, Oregon. At the time of conception, the
14 mothers were not residents on the east coast or outside of the State of Oregon as specifically
15 agreed, but were, in fact, residents of the State of Oregon who not only resided in Oregon, but
16 who intended to raise their children throughout the State of Oregon.

19 12.

20 As a result of this unintentional unveiling of Plaintiff's identity, two offspring were able
21 locate Plaintiff and initiate contact with Plaintiff.

23 13.

24 As a result of Defendant's utilization of Plaintiff's sperm, the likelihood of Plaintiff's
25 three (3) sons and one (1) daughter, noted in paragraph 7 above, coming into contact socially,
26 professionally, or romantically with the "Clinic Children," was greatly enhanced, and
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1 furthermore, Plaintiff has the following facts and situations, which do not constitute an
2 exhaustive listing but are examples of damages and the consequential realities resulting from
3 breaches of the aforementioned agreement between the parties:
4

- 5 1. Plaintiff has discovered that at least two sets of offspring have, in fact, attended
6 the same schools, church, and/or social functions with their boy and girl half-
7 siblings;
- 8 2. A Facebook Group of Plaintiff's offspring are intending to gather together for a
9 "get to know" your brothers and sisters "Family Reunion";
- 10 3. Because of the process utilized by Defendant's Fertility Clinic, it is impossible to
11 discover just how many of children born of Plaintiff's donations reside in Oregon,
12 the United States, and/or the world;
- 13 4. The Defendant's Fertility Clinic personnel did not keep records of Plaintiff's
14 sperm which was shipped and successfully used at places outside of the
15 Oregon/Pacific Northwest Region;
- 16 5. Since Plaintiff's initial contact with children #1, #2, #3 and #4, Plaintiff has been
17 compelled to deal with the emotional, mental, and physical toll of unparalleled
18 emotional, psychological, and physical energy imposed upon Plaintiff and many
19 of Plaintiff's children in addition to Plaintiff's now wife, together with the mother
20 of Plaintiff's custodial children;
- 21 6. As a result of the substantive information disclosed to Child #1, and not
22 otherwise, Plaintiff has been contacted by multiple children who were born as a
23 result of Plaintiff's contact with OHSU Fertility Clinic. Some children want
24 relationships with Plaintiff while others do not. Plaintiff has been compelled to
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properly deal with the various requests, and has struggled with determining his moral, legal, ethical, and personal obligations to all of the children born of his donations, especially while balancing the interests of his own wife and children;

7. Plaintiff is profoundly distressed with reference to his moral, legal, ethical, and personal obligations to the seventeen (17) children known to exist as a result of contact with the OHSU Fertility Clinic;

8. There is reason to believe that OHSU encouraged would be mothers to utilize the impregnation services of the OHSU Fertility Clinic – not for the altruistic and motivational reasons suggested to medical student’s, but for pecuniary gain to OHSU and to verify the research hypotheses regarding the health and educated probabilities that utilization of “scientific professional” or medical-doctor sperm would naturally result in women bearing children with superior physical and intellectual genetic makeup;

9. Plaintiff has discovered that at least one of his children works within the medical field in the same small community in which Plaintiff lives and resides; and

10. Plaintiff’s biological offspring may be at/near where Plaintiff treats people, and, in fact, may/have been physically examined by the children’s own father, the Plaintiff. Plaintiff has now been forced to face this reality in his practice of medicine.

14.

Defendant has breached the original agreement of the parties in the following particulars;

1. All fertilizations were not limited to women residing on the east coast or outside of the Pacific Northwest in the United States;

- 1 2. There are more than five (5) children born from the sperm of Plaintiff;
- 2
- 3 3. Defendant and Plaintiff have no way of knowing exactly how many biological
- 4 children have been born as a result of Plaintiff's restricted agreement to
- 5 participate in Defendant's research and fertility program, and, in fact, there are at
- 6 least seventeen (17) biological children born as a result of Plaintiff's agreement to
- 7 participate in Defendant's fertility research project;
- 8
- 9 4. After five (5) births to women residing on the east coast and/or outside of the
- 10 Pacific Northwest, Plaintiff's sperm was not restricted to medical research of the
- 11 fertility clinic in Portland, Oregon;
- 12 5. Plaintiff's specific personal data has not remained anonymous, but instead,
- 13 specific identifying data has been freely disseminated by agents of the OHSU
- 14 Fertility Clinic contrary to the material promises when the parties entered into the
- 15 original agreement;
- 16
- 17 6. Defendants have done nothing to ensure that it would be more probable than not
- 18 that any offspring born from Plaintiff's sperm would likely to be born in distant
- 19 east coast homes or far outside of the Pacific Northwest which would greatly
- 20 reduce the risk of incidental, platonic, and/or romantic contact or interaction
- 21 between the offspring conceived via the fertility clinic and Plaintiff, Plaintiff's
- 22 custodial children, and close relatives of the Plaintiff.
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8- COMPLAINT FOR FRAUD, FRAUD IN THE INDUCEMENT,
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FIRST CLAIM FOR RELIEF
(Fraud and Fraud in the Inducement)

FOR PLAINTIFF'S FIRST CLAIM FOR RELIEF HEREIN, Plaintiff alleges as follows:

15.

Plaintiff realleges paragraphs 1 through 14 above and incorporates the same as if fully set forth herein.

16.

Defendant fraudulently induced Plaintiff to enter into a contract for use of Plaintiff's sperm by knowingly making material representations of material fact as noted herein. At the time of making the representations, the Defendant knew or should have known that the representations were false, and that Plaintiff would not have entered into the agreement had Plaintiff known that the representations were false.

17.

At the time of the solicitation of the Plaintiff and his classmates, Plaintiff was a vulnerable and trusting first year medical student anxious to impress and participate in programs of the Defendant. Plaintiff's willingness to participate was enhanced by the altruistic goals of participation touted by Defendant. Plaintiff had no knowledge that his genetic material would not be limited to five (5) would be mothers, and that after five (5) pregnancies, Plaintiff's sperm would not be restricted to fertility research for the common good of people. Instead, the Defendant intended to take, and then sell, Plaintiff's genetic material for the financial gain of the Defendant. The misrepresentations of the Defendant were intentional, material, and were egregious violations of Plaintiff's willingness to do good. Defendant's conduct constituted an

1 abuse of the vulnerability of Plaintiff who at all times acted in a reasonable and prudent manner,
2 and who was ignorant of the falsity of the representations. Plaintiff relied on (and had the right
3 to rely on) the truth of the representations. But for the falsity of the representations, Plaintiff
4 would not have agreed to participate in the fertility program. As a result of his reliance on the
5 truth of the material terms of the agreement, Plaintiff has been damaged as set forth herein, and
6 said damages directly result from the acts and omissions of Defendant and its agents and
7 representatives of the OHSU Fertility Clinic.
8

9
10 18.

11 The allegations set forth herein constitute the tortious claims of Fraud and Fraud in the
12 Inducement in that representations were false and made for the purpose of inducing Plaintiff and
13 other vulnerable first year medical students, to participate in Defendant's fertility program for
14 profit which relied upon the vulnerability of first term medical students motivated to do good for
15 society, and would be mothers in particular. The Defendant and its agents knew the
16 representations were false, that the representations were material, that Plaintiff was ignorant of
17 the truth and falsity of the representations, and but for the representations, Plaintiff and other
18 medical students would not participate in Defendant's fertility program. At all times Plaintiff did
19 not know, nor could Plaintiff have discovered, the falsity of the representations, and Plaintiff
20 relied on, and had the right to rely on, what Plaintiff believed was the truth of the aforesaid
21 representations and the actions of the Defendant and its agents.
22

23
24 19.

25 Plaintiff has incurred extreme mental and emotional pain, anguish, and suffering which
26 have all had a significant and negative affect on his personal, parental, and marital relationships.
27 Plaintiff has been fraught with grief, anxiety, anger, and a profound sense of betrayal.
28

1 Furthermore, Plaintiff suffers from extreme remorse and regret for the impact on his ethical,
2 moral, and emotional responsibilities as a father, a parent, a medical doctor, and a human being –
3 all of which are a result of the falsity and intentional deceptive nature of OHSU's promises and
4 false representations which induced Plaintiff to participate in Defendant's Fertility Program
5 resulting in an untold number of offspring. Defendant's conduct is conduct which should not be
6 tolerated by a decent society and at least seventeen (17) children have been born as a result of
7 contact with OHSU's Fertility Clinic, all to Plaintiff's damage in the sum of \$250,000.00 x
8 seventeen (17) or a total of not more than \$4,250,000.00 or such sum as the jury finds just and
9 reasonable for non-economic damages.
10
11

12 20.

13 Defendant's conduct was reckless and exhibits an extreme ambivalence and haphazard
14 method which Defendant promised to avoid when using Plaintiff's genetic material to conceive
15 no more than five (5) children far outside Oregon and the Pacific Northwest. At the time of
16 volunteering to participate in Defendant's fertility program, Plaintiff and other male medical
17 students were required to submit answers to numerous questions over and above those questions
18 related to generalized genetic health history, and the historical knowledge of regions of the world
19 from which distant relatives may have originated. Participation in Defendant's fertility program
20 was restricted to minimum heights and minimum weight requirements. Furthermore, medical
21 students were asked questions related to physical ability, sports achievement, and educational or
22 class standing related to GPA in undergraduate school or otherwise. In hindsight and retrospect,
23 Plaintiff has been plagued with thoughts that OHSU's fertility clinic may have seduced him and
24 his medical school colleagues to donate sperm for the purpose of enticing an unknowable
25 number of women with the thought that they would conceive "a doctor's child." The
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requirements needed to participate, together with the possible “doctor’s child” representations to would be mothers, has caused Plaintiff anguish over the thought that Plaintiff was used as a tool in the furtherance of OHSU’s wrongful and unstated objective and goal to research and develop the science of eugenics – or to perversely increase the occurrence of a superior race of desirable inheritable characteristics for profit.

21.

As a further direct and proximate result of OHSU’s conduct, Plaintiff has and will incur the services of mental health providers for the purpose of treating Plaintiff’s mental and emotional wellbeing. Furthermore, Plaintiff has suffered an increased susceptibility for loss of income and his ability to practice medicine in the small community where, for more than twenty (20) years, Plaintiff has practiced medicine without fear of treating his own children – all to his economic damage in the sum of \$1,000,000.00 or such sum as a jury finds just and reasonable.

SECOND CLAIM FOR RELIEF

(Conversion)

FOR PLAINTIFF’S SECOND CLAIM FOR RELIEF HEREIN, Plaintiff alleges as follows:

22.

Plaintiff realleges paragraphs 1 through 21 above and incorporates the same as though fully set forth herein.

22.

Defendant, through its agent and representatives, has committed tortious conversion by intentionally exercising dominion and control over Plaintiff’s property for purposes outside of

1 the agreement and intent of the parties. Defendant's dominion and control over Plaintiff's
2 property has resulted in the birth of at least seventeen (17) children within the State of Oregon
3 and/or the Pacific Northwest.
4

5 24.

6 As a direct result of the aforementioned, Plaintiff has suffered extreme emotional and
7 psychological distress affecting his personal, parental, and marital relationships, and said conduct
8 is so egregious that punitive damages are appropriate and should be awarded in such sums as a
9 jury deems just and reasonable, but not to exceed the sum of \$500,000.00 at time of trial.
10

11 *****

12 **THIRD CLAIM FOR RELIEF**

13 **(Intentional Infliction of Emotional Distress)**

14 FOR PLAINTIFF'S THIRD CLAIM FOR RELIEF HEREIN, Plaintiff alleges as
15 follows:
16

17 25.

18 Plaintiff realleges paragraphs 1 through 24 above and incorporates the same as though
19 fully set forth herein.

20 26.

21 Because Plaintiff was a first-year medical student at Defendant's School of Medicine, a
22 special relationship existed between the parties. Because of said special relationship, Plaintiff
23 was especially vulnerable and susceptible to acquiescing to the requests of the Defendant, and
24 had Plaintiff known that the Defendant had no intent to adhere to the promises limiting the use of
25 sperm to five (5) mothers residing on the east coast and far outside of the State of Oregon and the
26 Pacific Northwest, Plaintiff would not have consented to participate in Defendant's research and
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28

1 fertility program.

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3 27.

4 Defendant knew or should have known that Defendant's intentional use of Plaintiff's
5 sperm would result in severe emotional distress had Plaintiff known that Defendant could/would
6 cause the birth of seventeen (17) or more children within the State of Oregon. The Defendant's
7 conversion of Plaintiff's genetic material resulting in the birth of at least seventeen (17) children
8 for the profit of OHSU, is egregious and in wanton disregard of the children's and Plaintiff's
9 well-being. Such intentional and egregious conduct should result in the assessment of punitive
10 damages and Plaintiff hereby reserves the right to amend this pleading to assert a claim for
11 punitive damages, to be awarded by a jury and to be split between Plaintiff and the State of
12 Oregon General Fund.
13

14
15 28.

16 Plaintiff hereby requests a jury trial.

17
18 WHEREFORE, Plaintiff prays for judgement against Defendant for each claim for relief
19 detailed herein, as follows:

- 20 (a) For non-economic damages in an amount to be determined at the time of trial, but not
21 to exceed the sum of \$4,250,000.00;
22
23 (b) For economic damages in the form of past and future medical expenses and
24 impairment of future earning capacity in an amount to be determined at the time of
25 trial, but not to exceed the sum of \$1,000,000.00; and

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1 (c) For Plaintiff's costs and disbursements incurred herein.
2

3
4 DATED this ____ day of _____, 2019.
5

6 THE GATTI LAW FIRM

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